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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,779	03/15/2004	Welesson Andrade	14-0008	9195

40158 7590 07/06/2007
WOODS FULLER SHULTZ & SMITH P.C.
ATTN: JEFFREY A. PROEHL
P.O. BOX 5027
SIOUX FALLS, SD 57117

EXAMINER

HAN, QI

ART UNIT	PAPER NUMBER
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2626

MAIL DATE	DELIVERY MODE
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07/06/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/800,779	Applicant(s) ANDRADE, WELESSON	
	Examiner Qi Han	Art Unit 2626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>03/15/2004</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Priority

1. Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) or under 35 U.S.C. 120, 121, or 365(c) is acknowledged.

Information Disclosure Statement

2. The references listed in the Information Disclosure Statement submitted on 03/15/2004 have been considered by the examiner (see attached PTO-1449).

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 5 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 5, the recited limitation "a connection port in the earpiece such that the command processing unit and memory chip are operationally couplable to a remote computer to **permit** programming of the command processing unit **and** memory chip to **provide** customized input and responsive output" is indefinite, because it is unclear which of the multiple components would act "to permit ..." or "to provide..." For example, the limitation would at least mean "a connection port to permit...", "the command processing unit and memory chip to

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permit...”, “a computer to permit...”, or “couplable to a remote computer to permit programming of the command processing unit **and** couplable to memory chip to provide customized input and responsive output”. The examiner cannot figure out which one is applicant’s claimed invention, so that the limitation is indefinite.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by JOHANSSON et al. (US 6,243,670 B1) hereinafter referenced as JOHANSSON.

As per **claim 1**, JOHANSSON discloses ‘circuit assembly for effectuating communication between a first and a second locally-positioned communication device’(title), including a handset unit (Fig. 8) comprising:

an earpiece positionable adjacent to a user's ear (col. 10, lines 12-23 ‘earphones (earpiece)...to securely engage the user’s ear’);

a command processing unit (col. 9, lines 56-64, ‘controller block 86’);

a microphone positionable adjacent a mouth of the user when the earpiece is positioned adjacent the user's ear, the microphone being operationally coupled to the command processing unit for providing the command processing unit with a voice command from the user (Fig. 8 and col. 10, lines 6-11, ‘a swing-out microphone, flexibly mounted to the housing’; col. 15, lines 55-56, ‘responsive to voice command of user’; also see Fig. 3);

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a voice recognition assembly operationally coupled to the command processing unit for identifying the voice command from the user (col. 10, lines 3-4, 'voice activation and voice recognition'; col. 15, lines 55-56);

a memory chip operationally coupled to the microprocessor for storing programmable responsive information (col. 9, lines 62-64, 'control block 860 may comprise a microprocessor ... memory (necessarily/inherently storing program and data—interpreted as programmable responsive information) and/or hard-wired digital logic'; col. 15, lines 55-56);

an audio output assembly operationally coupled to the command processing unit and the earpiece for providing the responsive information to the user in an audio format upon receiving the voice command from the user (Fig.8 and col. 9; line 51 to col. 10, line 13, 'speaker 880 and the drive/amplifier block 850 (lines an audio output assembly)', 'earphones', and Fig. 8 shows the controller 860 is coupled to block 850 and then output to earphones (earpiece)).

As per **claim 4** (depending on claim 1), as state above, JOHANSSON discloses the microphone being positioned at a distal end of a flexible member for facilitating positioning of the microphone adjacent to the user's mouth (Fig 3 and col. 10, lines 6-11, 'a swing-out microphone (at distal end)', which necessarily/inherently positioning the microphone adjacent to the user's mouth).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having

ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over JOHANSSON in view of SLOANE et al. (US 6,434,530 B1) hereinafter referenced as SLOANE.

As per **claim 2** (depending on claim 1), JOHANSSON does not expressly disclose the voice command being “a recipe name” and the responsive information being “a list of ingredients corresponding to the recipe of the voice command”. However, the feature is well known in the art as evidenced by SLOANE who discloses ‘interface shopping system with mobile apparatus’ (title), comprising ‘speech application’ with ‘speech recognition’ and ‘text-to-speech’ (col. 6, lines 61-65); using ‘voice command’ and ‘headset’ (col. 12, lines 46-63); ‘respond to questions’ and ‘generation of a recipe’ on the basis of certain ingredients’ (col. 7, lines 16-28). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify JOHANSSON by providing recipe/ingredients information to respond to question in a speech application using voice command capability, as taught by SLOANE, for the purpose (motivation) of influencing the article selection decisions and/or providing shopper with supplemental information requested to make intelligent shopping decisions (SLOANE: abstract and col. 2, lines 30-32).

6. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over JOHANSSON in view of AUGUST (US 2002/0094067 A1).

As per **claim 3** (depending on claim 1), JOHANSSON does not expressly disclose “the responsive information is a translation of the communication in a second language” However, the feature is well known in the art as evidenced by AUGUST E who discloses ‘network

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provided information using text-to-speech and speech recognition and text or speech activated network control sequences for complimentary feature access' (title), comprising operating 'voice command' and 'text-to-speech' in 'multiple languages' (p12-p14), and 'uttering the reserved words in another (second) language (a translation in a second language)' (p55). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify JOHANSSON by providing capability of uttering the reserved words in another language for text-to-speech application (a translation of the communication in a second language), as taught by AUGUST, for the purpose (motivation) of performing text-to-speech conversion using an identified (or selected) language (AUGUST: abstract).

7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over JOHANSSON.

As per **claim 5** (depending on claim 1), as best understood in view of claim rejection under 35 USC 112 2nd (see above), even though, JOHANSSON discloses "a connection port in the earpiece such that the command processing unit and memory chip are operationally couplable to a remote computer" and "memory chip" (Fig. 14, blocks 1410 and 1430, 'interface (a connection port)' and 'computer device (remote computer)'; also see col. 9, lines 62-64), JOHANSSON does not expressly disclose "to permit programming of the command processing unit" and "to provide customized input and responsive output" However, JOHANSSON further discloses that the terminal 'may be associated with a local area network (LAN)' and 'can be a computer that is selectable associated within a distributed computing environment' (col. 6, lines 42-50), and providing capability to receive and transfer data and/or voice for communication by the headset (col. 13, lines 40-60). Therefore, it would have been obvious to one of ordinary skill

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in the art at the time the invention was made to recognize that a device with interface to computer and data/voice communication capability in distributed/network environment would be capable to permit programming and provide customized input/output, and to combine the different teachings JOHANSSON by providing the capability of connecting remote computer, permitting programming and providing customized input/output, for the purpose (motivation) of communicating with other devices in an integrated communication system and/or within a distributed computing environment (JOHANSSON: abstract: col. 6, lines 47-50).

8. Claims 67 are rejected under 35 U.S.C. 103(a) as being unpatentable over JOHANSSON in view of COURTIS et al. (US 6,377,820 B1) hereinafter referenced as COURTIS.

As per **claim 6** (depending on claim 1), JOHANSSON does not expressly disclose “the earpiece is structured to rest in the ear of the user.” However, the feature is well known in the art as evidenced by COURTIS who discloses ‘radio telephone’ (title), comprising ‘headset’ that includes an in-ear speaker (earpiece)’ (Fig. 1 and col. 1, lines 12-14). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify JOHANSSON by providing the headset with an in-ear speaker, as taught by COURTIS, for the purpose (motivation) of providing a comfortable headset for the user (COURTIS: col. 2, lines 20-21).

As per **claim 7** (depending on claim 6), JOHANSSON in view of COURTIS further discloses that the microphone is positioned on a distal portion of a flexible member extending from the earpiece (JOHANSSON: Fig 3 and col. 10, lines 6-11, ‘the wireless headset may

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include two earphones, a swing-out microphone (at distal end), flexibly mounted to the housing').

Conclusion

9. Please address mail to be delivered by the United States Postal Service (USPS) as follows:

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Qi Han whose telephone numbers is (571) 272-7604. The examiner can normally be reached on Monday through Thursday from 9:00 a.m. to 7:30 p.m. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richemond Dorvil, can be reached on (571) 272-7602.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Inquiries regarding the status of submissions relating to an application or questions on the Private PAIR system should be directed to the Electronic Business Center (EBC) at 866-217-9197 (toll-free) or 703-305-3028 between the hours of 6 a.m. and midnight Monday through Friday EST, or by e-mail at: ebc@uspto.gov. For general information about the PAIR system, see <http://pair-direct.uspto.gov>.

QH/qh
June 25, 2007


R. Dorvil
SPE, 2626